

347—77.3(89A) Temporary variance. A temporary variance may be granted by an inspector for violations which would be considered to be noncritical to the safe operation of the facility. A temporary variance shall only be issued if the facility passed inspection on all other matters and failure to grant a temporary variance would result in a reinspection of the facility.

77.3(1) Application for variance. Any owner of a facility covered under Iowa Code chapter 89A desiring a temporary variance from a rule or portion thereof may seek a temporary variance. The owner may make a verbal request to the inspector at the time of the inspection or the inspector may grant a variance on his own initiative.

77.3(2) An inspector will consider the following factors prior to granting or denying a request for a temporary variance.

- a.* Degree and probability of threatened harm to the users of the facility;
- b.* A determination that the issuance of the variance will not substantially affect safe operation of the facility and the minor infractions cannot be corrected before the inspection is completed;
- c.* Degree of difficulty in abating the violation; and
- d.* General operating condition of the facility.

77.3(3) Upon granting a temporary variance, the inspector shall issue to the owner a written statement of the objects, conditions and violations covered by the temporary variance.

77.3(4) If a variance is denied, the owner may make a written application to the commissioner stating the factors believed to support the variance.

77.3(5) A temporary variance will be valid until the next inspection, although the owner is expected to comply as promptly as possible.

77.3(6) Temporary variances shall only be issued by employees of the division of labor services.